

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 18-0757.01 Kip Kolkmeier x4510

SENATE BILL 18-125

SENATE SPONSORSHIP

Gardner and Kagan,

HOUSE SPONSORSHIP

Lee,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING FIDUCIARY RESPONSIBILITIES OF TITLE INSURANCE**
102 **ENTITIES TO PROTECT FUNDS HELD IN CONJUNCTION WITH REAL**
103 **ESTATE CLOSING SETTLEMENT SERVICES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires title insurance companies, title insurance agents, and their agents and affiliates to hold funds belonging to others in a fiduciary capacity. "Fiduciary funds" means all funds received in conjunction with real estate closing and settlement services. The commissioner of insurance shall promulgate rules regarding fiduciary

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
February 23, 2018

funds. Violation of title insurance entity fiduciary duties is an unfair act or deceptive practice in the business of insurance.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 10-11-102, **amend**
3 **the introductory portion; and add (9.5) and (11) as follows:**

4 **10-11-102. Definitions.** As used in this article ***11***, unless the
5 **context otherwise requires:**

6 **(9.5) "TITLE INSURANCE AGENCY" MEANS A CORPORATION,**
7 **PARTNERSHIP, FOREIGN ENTITY, OR DOMESTIC ENTITY AS THOSE TERMS**
8 **ARE DEFINED IN SECTION 7-90-102, OR ASSOCIATION OR OTHER LEGAL**
9 **ENTITY THAT TRANSACTS THE BUSINESS OF TITLE INSURANCE.**

10 **(11) "TITLE INSURANCE ENTITY" MEANS A TITLE INSURANCE**
11 **AGENT, TITLE INSURANCE AGENCY, OR TITLE INSURANCE COMPANY.**

12 **SECTION 2.** In Colorado Revised Statutes, **add** 10-11-127 as
13 follows:

14 **10-11-127. Fiduciary responsibilities of title insurance entities**
15 **- definition of fiduciary funds - deceptive act or practice - rules.** (1) A
16 TITLE INSURANCE **ENTITY AND ITS AFFILIATES OR SUBSIDIARIES** IN
17 POSSESSION OF FIDUCIARY FUNDS RECEIVED AND BELONGING TO OTHERS
18 SHALL HOLD THOSE FUNDS IN A FIDUCIARY CAPACITY.

19 **(2) THE COMMISSIONER SHALL PROMULGATE REASONABLE RULES**
20 **THAT ARE CONSISTENT WITH THIS SECTION AND ARE NECESSARY OR**
21 **PROPER TO:**

22 **(a) REQUIRE THE SEGREGATION AND ACCOUNTING OF FIDUCIARY**
23 **FUNDS;**

24 **(b) REQUIRE NOTICE TO THE COMMISSIONER BY TITLE INSURANCE**
25 **COMPANIES WHO ARE AWARE OF A VIOLATION OF THE FIDUCIARY FUND**

1 SEGREGATION AND ACCOUNTING RULES, AND THE APPOINTMENT,
2 SUSPENSION, OR DISMISSAL OF TITLE INSURANCE AGENTS; AND

3 (c) PROVIDE FOR THE IMPLEMENTATION AND ADMINISTRATION OF
4 THIS SECTION.

5 (4) FOR THE PURPOSES OF THIS SECTION, "FIDUCIARY FUNDS"
6 MEANS ANY MONEY RECEIVED IN CONJUNCTION WITH CLOSING AND
7 SETTLEMENT SERVICES OTHER THAN A FEE CHARGED BY THE TITLE
8 INSURANCE COMPANY OR TITLE INSURANCE AGENT TO PERFORM THE
9 CLOSING AND SETTLEMENT SERVICES FOR A REAL ESTATE TRANSACTION.

10

11 (ss) A KNOWING FAILURE TO COMPLY WITH RULES REGARDING
12 NOTICE PROMULGATED IN ACCORDANCE WITH SECTION 10-11-127.

13 **SECTION 3. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.